

PARENT VISITATION INSTRUCTION PACKET

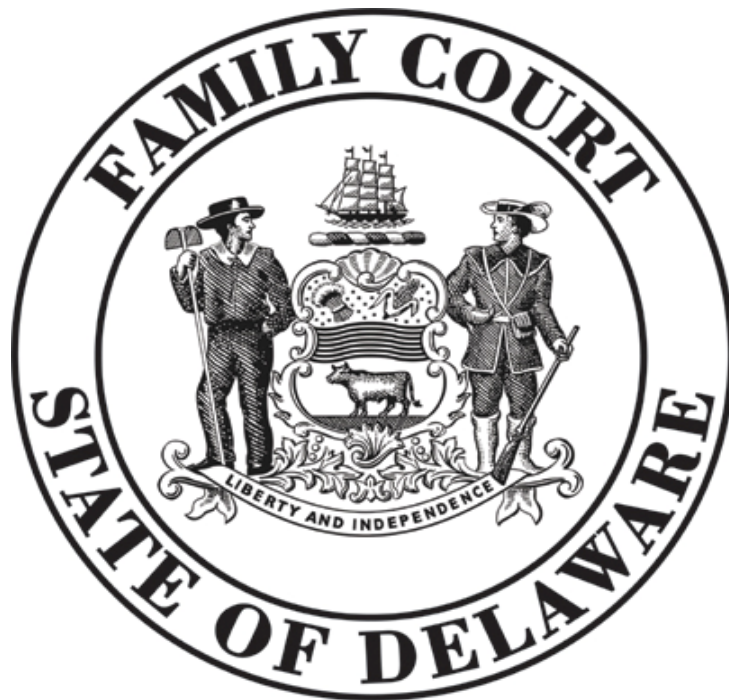


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PARENT VISITATION INSTRUCTION PACKET

Use the Parent Visitation Instruction Packet **ONLY** when:

- ❑ You would like to request visitation with your child **OR** change the visitation schedule you currently have with your child. Visitation establishes a schedule of contact between you and your child. You do not receive any custody rights by filing for visitation, however, visitation is usually addressed in a custody order. (For more information on filing for custody, please see the Custody Instruction Packet); **AND**
- ❑ The child has been living in Delaware for **AT LEAST 6 CONSECUTIVE MONTHS BEFORE** filing your petition. (There are exceptions to this 6-month requirement. If the child has not lived in Delaware for at least 6 months, talk to an attorney to see if an exception applies to your situation.).

If you and the Respondent already agree about how you want the visitation arrangement to be handled, you may file a **Consent Order**. To file a Consent Order, you and the Respondent write down how you want the visitation arrangement to work and a Hearing Officer will sign your agreement and make it an order of the Court. To obtain a Consent Order, you must file all of the following forms. Each form is described in detail on the page number listed in parenthesis after it. You must file the **Petition for Parental Visitation** (page 7) **OR** the **Petition for Modification of Visitation** (page 7), the **Custody Separate Statement** (page 9), the **Information Sheet** (page 10) and the **Consent Order-Custody, Visitation** (page 11).

To make this Instruction Packet easier to read, it will explain Visitation as if you wanted to file for Visitation of one child. If you would like to have visitation with more than one child and all of the children have the same mother **AND** the same father, you may file for visitation of all of the children on the same petition. **Please note that if any**

of the children you are seeking visitation with have different fathers or mothers, you must file for visitation on separate petitions. For example, if two of the children have one father and one of the children has a different father, you would be required to file two petitions, one for each father.

HOW TO USE THE PACKET

This packet contains general information about the process of filing a Petition for Parental Visitation or a Petition to Modify Visitation, basic instructions on how to complete the Court forms you must file, and samples of the completed Court forms.

You should read the instructions and sample forms carefully **before** filling out any forms. All of the forms must be neatly filled out by hand or typed. **ONLY FILE THE FORMS INCLUDED IN THE FORMS PACKET.** The sample forms included in this Instruction Packet are simply to help you understand how to fill out the real forms in the Forms Packet. Current versions of the forms are available in the Resource Center or at this website: <http://courts.delaware.gov/family/>

YOU DO NOT HAVE TO COMPLETE ALL THE SECTIONS AT ONCE. For example, you do not have to file the forms in Section 2 at the same time as the forms in Section 1. Read the information carefully to ensure that you know what you are supposed to do and when.

Please look for the shaded written instructions and the following symbols throughout the packet. They will help guide you.



READ THIS SECTION CAREFULLY



THIS DOCUMENT MUST BE FILED



FILL IN THE BLANKS OR WRITE INFORMATION HERE



YOU DO NOT HAVE TO TAKE THESE STEPS NOW.



TIPS AND REMINDERS ...

- ✓ Make sure to read any **Answers to Frequently Asked Questions** on Visitation. They will help you better understand the Visitation process.
- ✓ Remember who is the Petitioner and who is the Respondent.
 - The **PETITIONER** is the person who filed the Petition for Parental Visitation or Petition to Modify Visitation, in other words, you.
 - The **RESPONDENT** is the person replying (responding) to the Petition.
- ✓ Remember that just because you fill out the forms correctly does not necessarily mean the Court will give you (grant) what you want. It is up to you at the court hearing to prove why the Court should give you what you want.
- ✓ Representing yourself may take a lot of time, may be difficult and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. **If at any point throughout the Court process you are not sure about representing yourself, you should talk to an attorney.**
- ✓ Please remember that **COURT STAFF CANNOT GIVE YOU LEGAL ADVICE**. Should you have a question about what options you have or what you should do, you should talk to an attorney. Just because you talk to an attorney does not necessarily mean that you must hire that attorney to represent you. Ask the attorney if he/she is willing to meet with you and

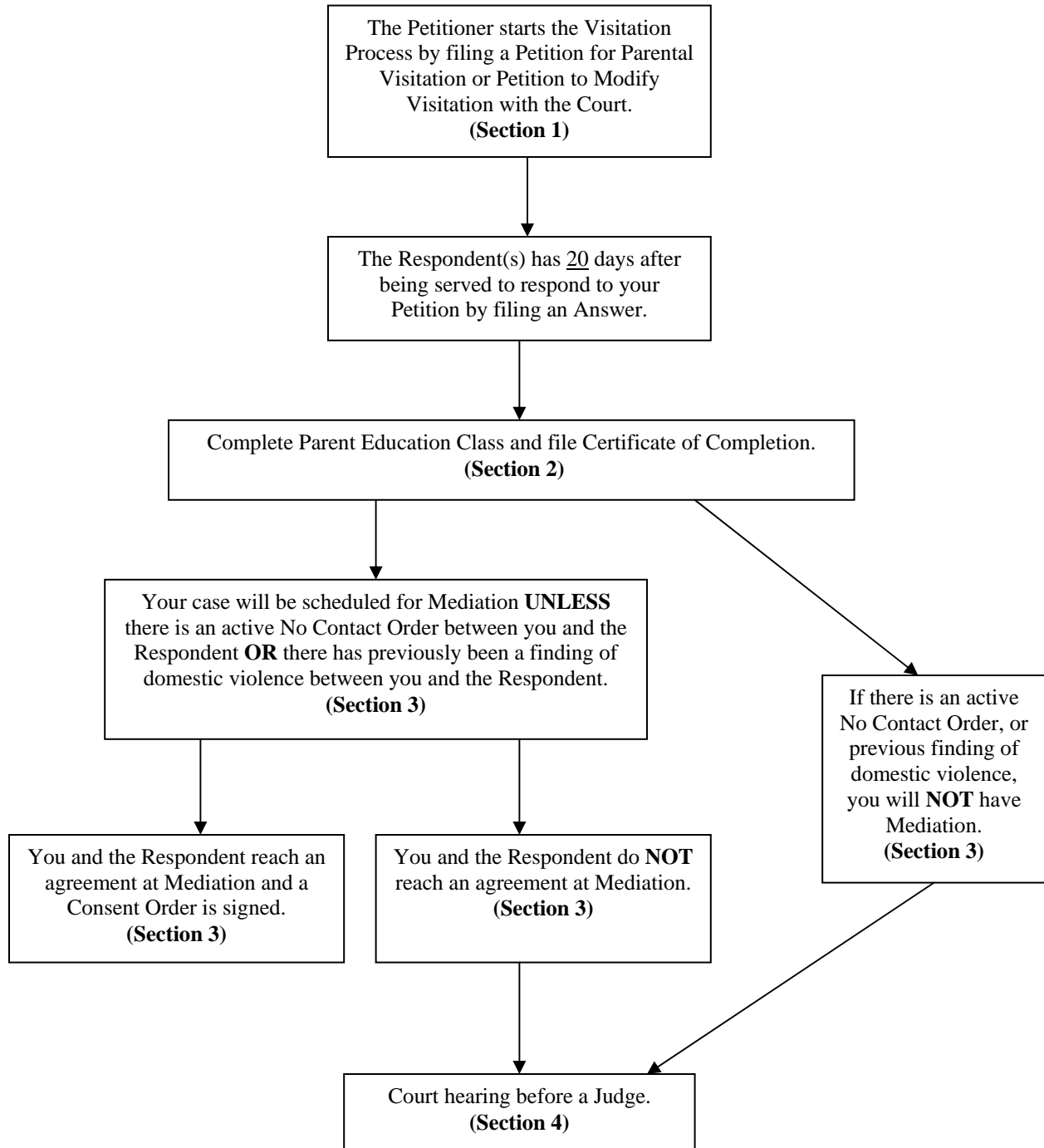
- ✓ If you would like assistance in finding an attorney, you can call the **Lawyer Referral Service** in New Castle County, 302-478-8850, and in Kent and Sussex Counties, 1-888-225-0582. (You may call the same telephone numbers and ask for the **Legal Help Link** to find out if you qualify for free legal assistance.) You also can refer to the **Attorney Roster** that is located at the Family Court Resource Centers. The Attorney Roster is a listing of some of the attorneys who practice family law in Delaware and includes information about how to contact the attorneys and what fees the attorneys charge.
- ✓ **Always bring your government issued photo identification** with you (such as your driver's license, or a state-issued photo identification card) whenever you get a Court form notarized.
- ✓ **THERE IS A LOT OF PAPER IN A COURT CASE AND HAVING THE COURT MAKE YOU COPIES CAN BE VERY EXPENSIVE.**

PLEASE READ AND REMEMBER THESE IMPORTANT TIPS

REMEMBER

- **Keep a copy of every document and court paper.**
- **Keep all notes, documents and court papers together and organized in a folder with the most recent papers on top.**
- **Bring the folder with your papers with you every time you go to Court.**
- **When you file a document with the Court, bring the required number of copies of each paper and an extra copy for you to have “clocked-in.” Keep the clocked-in copy in your folder so you have proof of the time and date you filed each document. You may make copies at the Resource Centers but there is a small fee.**
- **When you complete a document or form for filing with the Court, always include the full case name and file and petition numbers (if there are any).**
- **When you must mail something, we suggest that you use regular mail AND “certified mail, return receipt requested” so that you have proof the other party received the envelope. If you cannot afford to pay for “certified mail” we suggest you get a “certificate of mailing” at the post office to prove that you mailed the envelope to the other party. You may purchase stamped envelopes at the Resource Centers and the Court will mail your Court papers for you by regular mail. You are responsible for certified mailing.**

VISITATION PROCESS



SECTION 1

STARTING THE VISITATION PROCESS



You **MUST** file the ORIGINAL and at least ONE (1) COPY of each form below with the Court.

- Make a copy of each completed form for your records.
- Have your set of copies “clocked-in” for your file. Having a paper “clocked-in” means that the Court will stamp on the copy the time and date you filed your papers. Your clocked-in copy will serve as proof of the time and date you filed the paper.



Petition for Parental Visitation OR Petition to Modify Visitation form. (*file the original and one copy one copy for each Respondent*).

- Sample forms may be found on pages 18-20.
- Any parent of a child may file for parent visitation. If you are not sure that you qualify as the legal parent of a child, you should speak to an attorney.
- You only need to file ONE of the above petitions. The following information will help you to decide which petition to file:
 - If you and the other party have never had a court-ordered visitation schedule with the child (this includes a visitation schedule that is part of a Custody Order), you **MUST** file a Petition for Parental Visitation asking the Court to **enter an initial visitation order**.
 - If you and the other party do have a court-ordered visitation schedule with the child, you **MUST** file a Petition to Modify Visitation asking the Court to **change** the current visitation schedule.
- The U.S. and Delaware State Constitutions require that whenever a petition is filed with the Court, **ALL** of the people involved with the case must be notified. By naming a person as a Respondent, you are asking the Court to notify him/her of the petition. As a parent filing for visitation

must name the other parent as a Respondent. You must also name any current guardian or custodian if that person is not the other parent. If you fail to notify any of the necessary parties, your petition may be deficient and you may have to start the process over, including paying another filing fee.

- When alleging facts in your Petition for Parental Visitation or Petition to Modify Visitation, you want to give the Court information so that it can decide what visitation arrangement is in the child's "**best interest.**" Generally, the child's "best interest" is the legal standard the Court must follow when deciding who should have visitation with a child. (See Title 13 of the Delaware Code, section 722.) The Court will want to know about the following things when deciding what is in the child's "best interest." Explain to the Court how the following things apply to your situation.

1. The wishes of the child's parents as to his/her custody and living arrangements;
2. The wishes of the child as to his/her custody and living arrangements;
3. The interaction of the child with his/her parents, brothers and sisters, grandparents and any people living in the child's home;
4. The child's adjustment to his/her home, school and community;
5. The mental and physical health of all individuals involved;
6. How well each parent has in the past and continues to satisfy their parental rights and responsibilities with respect to their children;
7. Evidence of domestic violence; and
8. The criminal history of any party or adult member of a household, including guilty pleas, pleas of no contest and criminal convictions.

The Court will also consider the child's maturity. The Court will establish a visitation schedule that will allow the child to have frequent and meaningful contact with both parents unless that contact would endanger the child's physical health or emotional development. (See Title 13 of the Delaware Code, section 728 (a).)

- When writing down your allegations, you should list each point you want to make in its own **numbered paragraph**. This will make it easier for the Court and the Respondent(s) to understand why you think you should have visitation with the child. An example of numbered paragraphs can be found on the Sample Petition for Parental Visitation and the Sample Petition to Modify Visitation found at the end of this section (see pages 20 & 21).
- If you need more space to write, you may attach additional pages to the petition. Be sure to state on the petition that you have attached more pages, so the Court and the Respondent(s) will know to look for additional information.
- You must sign your Petition for Parental Visitation or Petition to Modify Visitation in the presence of a notary public or authorized Court staff.



Custody Separate Statement form. (file the original and one copy for each Respondent).

- Sample form may be found on pages 21-23.
- The Custody Separate Statement explains to the Court a child's past and present living arrangements, so the Court can determine if it has authority to decide your petition. If all of the children have had the **same living arrangements as one another** for the past five years, then you may include all children on a single form. However, if the children have **lived apart** from each other sometime during the past five years, you must complete a separate form for each child. For example, if last year, one

child resided with you and another child resided with the other parent, it would be necessary to file two Custody Separate Statements, explaining where each child lived.



Information Sheet form. (file the original).

- Sample form may be found on pages-24-25.
- This form provides the Court with general information about the parties that allows the Court to adequately notify the parties about upcoming proceedings and to maintain up-to-date records.

BELOW ARE OPTIONAL FORMS

ONLY file the following forms if the situation applies to you.



Affidavit that a Party's Address is Unknown form. (*file the original and one copy*).

- Sample form may be found on page 26.
- **ONLY** file this form if you do **NOT** know where the Respondent(s) lives.
- You must provide the Court with each Respondent's current address. If you do not know where the Respondent(s) currently lives, you must **try to locate** him or her. Ways to do this include talking to the Respondent's friends or relatives or checking the Internet. If, after looking for the Respondent(s), you cannot find his/her current address, you must complete this form. **Do not complete** this form until you have made an effort to locate the Respondent(s).
- You must complete this form before you publish notice of the matter in the newspaper. Please see pages 15-17 for more information regarding Notice by Publication.



Consent Order-Custody, Visitation (*file one original*)

- Sample form may be found on pages 27-28.
- File this document only if **you and the Respondent(s) have already agreed** on what the visitation should be.
- On this form you will describe for the Court which parent will have visitation with the child and what the visitation schedule will be.
- You and the Respondent must both **sign and have notarized** the Consent Order.
- Before you file the Consent Order, you and the Respondent(s) **may** have to meet with a court employee to review the terms of your agreement.

- Once you have filed your agreement with the Court, it will be forwarded to a Commissioner who will review your agreement. If the Commissioner finds that the agreement is in the best interest of the child, then he or she will sign the agreement and it will become a court order, called a **Consent Order**.
- Once the Commissioner signs the Consent Order, it is a court order and you and the Respondent **MUST** follow the terms of the Order. The Court will mail a copy of the signed order to you and the Respondent(s).

When describing the visitation schedule, be as **specific** as possible. Explain the places, dates and times that visitation will occur. Also, explain to the Court who will be responsible for driving the child to and from the visitations. You may want to avoid agreements that simply state that “visitation shall be by mutual agreement of the parties.” While this may make it easier for you and the Respondent to reach an agreement now, it gives you no guidance in how visitation will occur should you and the Respondent be unable to reach a mutual agreement regarding visitation at a later date. It may be better to decide on the details of visitation now, rather than have to come back to Court to resolve your differences in the future.



Waiver of Rights under the Servicemembers’ Civil Relief Act (*file the original and one copy*). **Complete this section ONLY if the Respondent IS in the military.**

- Sample form may be found on page 29.
- If the Respondent(s) is in the military, the Respondent(s) must file an Answer, an Affidavit of Appearance or **YOU** must have the Respondent(s) sign a Waiver of Rights under the Servicemembers’ Civil Relief Act. If the Respondent(s) does not file one of these documents, you must file a **Motion to Appoint an Attorney**. You should start this process as soon

as possible because it takes time. The Court will not schedule your visitation hearing until you complete this process.



BE SPECIFIC WHEN COMPLETING THE FORMS and make sure you address **ALL** of the areas explained on pages 8 & 9 in your petition. When you complete a form, write in blue or black ink **AND** write neatly.



File the forms at the Family Court **in the County where the child(ren) currently lives**. If the child does not currently live in Delaware, you should talk to an attorney before filing to make sure the Delaware Family Court is the right Court to hear your case and to find out in which state and county you should file.

- In Kent and Sussex Counties you may file your papers at the Resource Centers on the first floor of the Family Court buildings.
- In New Castle County, you may file your papers at the Resource Center on Lower Level 1 of the New Castle County Courthouse.
- If you file your papers by mail, the addresses for each courthouse are available on the Family Court website. The Court does **NOT** accept filings that are faxed or e-mailed.



A filing fee is charged for each petition that is filed. To find out what the filing fee is, you can look at the Family Court website or go to the Family Court Resource Centers. The filing fee can be paid in cash, by credit card, by debit card, by check or by money order made payable to “Family Court”. If you are filing by mail, you may only pay by check or money order. **FAMILY COURT WILL NOT ACCEPT YOUR PAPERS WITHOUT THE FILING FEE**. There are additional costs if you must publish notice of this action. (See pages 15-17 more information of when publication is necessary.)

ADDITIONAL INSTRUCTIONS FOR SECTION 1



SERVICE OF PROCESS

Each Respondent **must receive** a copy of the Petition for Parental Visitation or Petition to Modify Visitation. The delivery of the petition and any other forms you file is called **Service of Process**. The way that you accomplish Service of Process depends on how much information you can provide the Court about where the Respondent(s) lives. Determine from the following options how Service of Process should be accomplished in your case.

❑ **The Respondent Lives in Delaware and You Know His/Her Address**

If the Respondent lives in Delaware **AND** you know his/her address, a **Process Server** (someone whose job involves delivering Court papers) will give a copy of your petition and other papers to the Respondent(s). This is called **Personal Service**. You do not need to fill out any additional paperwork.

❑ **The Respondent Does Not Live in Delaware and You Know His/Her Address**

If a Respondent(s) does **NOT** live in Delaware **AND** you know the Respondent's address, the Court will mail your papers *via* certified mail, return receipt requested, to the Respondent(s). If delivery of the certified mail is unsuccessful, **YOU** must publish **AT YOUR EXPENSE** a legal notice of your petition in an approved newspaper in the county and state where the Respondent(s) lives. This is referred to as **Service of Process by Mail and Publication**. You must also complete an Affidavit that Address is Unknown form (see page 11). The Court will notify you by mail if you need to publish notice in the newspaper.

❑ **You Do Not Know Where the Respondent Lives or Works**

If you do **NOT** know where a Respondent lives or works and, therefore, the Process Server cannot deliver your petition to that Respondent, **YOU** must publish **AT YOUR EXPENSE** a legal notice of your petition in an approved newspaper in the county and state where the Respondent's last known address was located. You must also complete an Affidavit that Address is Unknown form (see page 11).



PUBLICATION

- Instructions on how to publish notice of a court action are available in the Resource Centers. It is important to carefully follow the instructions for publication. If you do not properly publish the notice, your Petition for Parental Visitation or Petition to Modify Visitation could be dismissed.
- You must publish the notice **in the county where the Respondent(s) resides or in the county where the Respondent's last known address was located.** You are responsible for contacting the newspaper and paying the necessary publication fee to the newspaper.
- If you must publish the notice, **YOU** must provide **PROOF** to the Court that you published the notice. If the Court does **NOT** receive satisfactory proof of publication **WITHIN 30 DAYS** from the date you filed your petition, the Court may dismiss your case and you will have to start all over again, including paying another filing fee.
- You may publish in the following **approved Delaware newspapers** depending on where the Respondent(s) resides.
 - **New Castle County**
News Journal
950 W. Basin Road
New Castle, Delaware 19720
(302) 324-2500
 - **Kent County**
Delaware State News
421 Webb's Lane

Dover, Delaware 19903
(302) 674-3600

- **Sussex County**
Sussex Countian
P.O. Box 40 (13 South Front Street)
Georgetown, Delaware 19947
(302) 855-7400

- If you must publish in an out-of-state newspaper, you should select a newspaper that is widely distributed in the area where the Respondent(s) lives (or last lived if you do not know the address) **AND** the newspaper should be one which the Respondent(s) would most likely read.



THE ANSWER

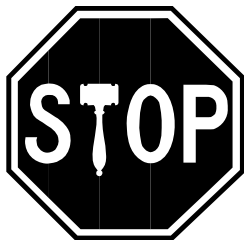
- Once the Respondent(s) has been served with the Petition for Parental Visitation or Petition to Modify Visitation, each Respondent(s) has **20 days** from the date of service (the date the court papers are delivered to the Respondent(s)) to respond by filing an **Answer** to your petition. If there is more than one Respondent in your case, each Respondent must file his/her own separate Answer. You should receive a copy of the Respondent's Answer in the mail.
- On the Answer to your petition, the Respondent(s) must **admit** (agree with) or **deny** (disagree with) each of the statements you made in your petition. The Respondent(s) may explain why he/she disagrees with the statement.



VISITATION AND CHILD SUPPORT

- Visitation and child support are separate legal actions. Visitation rights are not contingent upon the payment of child support. Likewise, the obligation to pay child support exists regardless of whether visitation is taking place. In other words, a parent cannot be denied visitation with a child simply because he/she has not paid child support. Also, a parent may have to pay child support even though he/she is not allowed visitation with a child.
- For more information on the obligation to pay child support, please see the Frequently Asked Questions About Child Support Packet, or contact the Division of Child Support Enforcement or an attorney.

SECTION 2 BEGINS AFTER THE SAMPLE FORMS FOR SECTION 1.



**YOU SHOULD BEGIN SECTION 2 ONCE YOU
HAVE FILED THE FORMS IN SECTION 1.**

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

PETITION TO MODIFY VISITATION

Petitioner			Respondent				
Name Anne C. Smith			Name John D. Smith			File Number CK04-12111	
Street Address 101 Oak Street			Street Address 490 Pine Street				
Apt. or P.O. Box Number Apt. # 123			Apt. or P.O. Box Number			Petition Number	
City Dover	State DE	Zip Code 19901	City Wilmington	State DE	Zip Code 19899		
Social Security Number 111-22-3333		Date of Birth 2/3/64	Social Security Number 787-98-6767		Date of Birth 7/13/65		
Attorney Name and Phone Number n/a			Attorney Name and Phone Number n/a				

IN THE INTEREST OF the following child(ren):

Name Doug A. Smith	Date of Birth 10/14/91	Name Mary J. Smith	Date of Birth 4/17/96
Name	Date of Birth	Name	Date of Birth
Name	Date of Birth	Name	Date of Birth

The said child(ren) live with (Name): **John D. Smith**

Relationship to child(ren): **Father**

490 Pine Street **Wilmington** **DE** **19901**
 (STREET ADDRESS) (CITY) (STATE) (ZIP CODE)

Petitioner requests the Court enter an order modifying a prior visitation order of **Judge Howell**, dated **9/15/03**, and in support of the following circumstances. (Please list in consecutively numbered paragraphs):

Judge Howell (Judicial Officer) **9/15/03** (MM/DD/YY)

Look on the current visitation order to find the name of the judge that issued the order and the date the order was issued.

- The children have been living with Father and visiting with Mother every other weekend.
- Father has taken a new job that requires him to work both Saturday and Sunday of every week. Father is currently having to pay for child care for the weekends that Mother doesn't have visitation.
- It is the best interest of the children to have visit with Mother every weekend instead of being left with a babysitter.

List your allegations in numbered paragraphs.

Petitioner requests that Visitation be as follows:

Mother will have visitation every weekend beginning after school on Fridays and lasting until 4 pm on Sunday afternoon when Father returns from work. Mother will ensure that the children get attend any soccer games that are scheduled on the weekends. Mother will provide transportation to and from visitation. Mother can pick the children up at school on Friday afternoon and take them home on Sunday afternoons. All other provisions of the current visitation order shall remain the same.



Describe the visitation schedule you want to have in detail.

WHEREFORE, Petitioner prays that a Summons issue to Respondent and that the Court grant relief prayed for or such other relief as may be just.

SWORN TO AND SUBSCRIBED before me
this date,

March 17, 2004



Sign in the presence of a notary or court staff.



Anne C. Smith
Petitioner/Attorney

Donna King

Clerk of Court/Notary Public



Signed by notary or court staff.

Address (if not stated above)

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County



Check the county in which you are filing.

CUSTODY SEPARATE STATEMENT

Petitioner

v. Respondent



Name Anne C. Smith	Name John D. Smith	File Number CK04-1211
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1. What type of petition are you filing? FILL IN PETITION TYPE (E.g. Petition for Custody)



2. Who is the child(ren) named in your petition? (Please provide full name and date of birth)

Child's Name	Date of Birth (mm/dd/yyyy)	Place of Birth (City, State)
Doug A. Smith	10/15/2010	Dover, DE
Mary J. Smith	4/22/2013	Dover, DE



3. Have all the children listed above continually resided with one another? ☒ Yes ☐ No

If you answered "No," the children have not continually resided with one another; please complete a Custody Separate Statement for each child.

CURRENT ADDRESS	Address where child(ren) <u>currently reside(s)</u>			Date(s) Child(ren) lived here	
	** If the address where the child(ren) currently resides is a confidential address in Family Court, DO NOT provide the address on this form. Instead, please mark the fields as CONFIDENTIAL.			1/28/2016 to present	
	Address		City	State	Zip
	101 Oak Street, Apt 123		Dover	DE	19901
	People living in the household with the child(ren):		Date of Birth	Relationship to child(ren):	
	Anne C. Smith		12/26/1985	Mother	
	Mary A. White		4/28/1959	Grandmother	



4. During the **past five years**, where has/have the child(ren) lived? List addresses from the most recent to the oldest. If the child(ren) is under the age of five years old, end with the first address where the child lived.

PRIOR ADDRESS	Address where child(ren) previously resided		City	State	Zip Code
	10 Clayton Street		New Castle	DE	19720
	Date(s) child(ren) lived there	Name of person(s) child(ren) lived with		Relationship to child(ren)	
	2/14/2014 to 1/27/2016	Anne C. Smith & Mary A. White		Mother and Grandmother	
PRIOR ADDRESS	Person's current address		City	State	Zip Code
	101 Oak Street, Apt 123		Dover	DE	19901
	Address where child(ren) previously resided		City	State	Zip Code
	490 Pine Street		Wilmington	DE	19899
	Date(s) child(ren) lived there	Name of person(s) child(ren) lived with		Relationship to child(ren)	
	10/1/2010 to 2/14/2014	John V. Smith and Anne C. Smith		Father Mother	
	Person's current address		City	State	Zip Code
	Unknown (John Smith) 101 Oak Street, Apt 123		Dover	DE	19901

PRIOR ADDRESS	Address where child(ren) previously resided		City	State	Zip Code
	Date(s) child(ren) lived there to	Name of person(s) child(ren) lived with	Relationship to child(ren)		
	Person's current address		City	State	Zip Code
PRIOR ADDRESS	Address where child(ren) previously resided		City	State	Zip Code
	Date(s) child(ren) lived there to	Name of person(s) child(ren) lived with	Relationship to child(ren)		
	Person's current address		City	State	Zip Code



5. Check **ONE** and complete as directed.

- ☒ No one other than the parties have physical custody, legal custody or visitation rights with the child(ren).
☐ A person(s) other than the parties have physical custody, legal custody or visitation rights with the child(ren). If you check this box, complete the information below. Attach additional sheets if necessary.

PERSON 1	Name of person(s) with physical custody, legal custody or visitation		Relationship to child(ren)		
	Person's current address	City	State	Zip Code	
PERSON 2	Name of person(s) with physical custody, legal custody or visitation		Relationship to child(ren)		
	Person's current address	City	State	Zip Code	



6. Select all that apply and complete as directed.

- ☐ I have not been involved in any other court action for custody and/or visitation of this child(ren).
☒ I have been involved in another court action for custody and/or visitation of this child(ren). If you check this box, complete the information below. Attach additional sheets if necessary.

ACTION 1	Type of Action (e.g. Custody, Visitation, Other)	Person (who filed the action)		State
	Visitation	John V. Smith		DE
	Court	Case Number	Date Filed	
	Family Court	CK16-1122	10/2/2016	
ACTION 2	Result	Date of Order		
	Visitation granted	12/15/2016		
	Type of Action (e.g. Custody, Visitation, Other)	Person (who filed the action)		State
	Court	Case Number	Date Filed	
ACTION 3	Result	Date of Order		
	Type of Action (e.g. Custody, Visitation, Other)	Person (who filed the action)		State
	Court	Case Number	Date Filed	
	Result	Date of Order		



7. Check **ONE** and complete as directed.

- ☐ I do not know of any other court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship, Adoption or Paternity involving myself, the other party or the child(ren) that could affect this petition.
- ☒ I, the other party or the child(ren) have been and/or are currently involved in another court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship or Adoption, that could affect this petition. *If you check this box, complete the information below. Attach additional sheets if necessary.*

ACTION 1	Type of Action (e.g. PFA, TPR, Guardianship, Other)	Person (who filed the action)		State
	PFA	Anne C. Smith		DE
ACTION 2	Court	Case Number	Date Filed	
	Family Court	CK04-12111	8/11/2017	
ACTION 2	Type of Action(e.g. PFA, TPR, Guardianship, Other)	Person (who filed the action)		State
	Court	Case Number	Date Filed	



Sign in the presence of a notary or court staff.



Anne C. Smith
Petitioner

Sworn to and subscribed before me this 18th day of September, 2017.



Signed by notary or court staff.



Donna King
Clerk of Court/Notary Public

Fill in the date you file the form.

The Family Court of the State of Delaware

INFORMATION SHEET - PLEASE PRINT

If you know your case file number, put it; if not, leave blank.



Date: 12/13/2017 File No.: CN17-99999

Please fill in A to K pertaining to you the Applicant/Petitioner. (For additional petitioners use additional sheets)



A. Name: Anne C. Smith

Each Petitioner must complete a separate form



B. Address: 101 Oak Street, Apartment #123

City/State/Zip: Dover, DE 19901



C. Phone – Home: (302) 555-1111 Work: (302) 555-9999 Cell: (302) 999-8888



D. Employer & Address: ABC Child Care Center

500 Pine Street

Dover, DE 19904

Hours/Shift 7:30 to 4:30 Monday-Friday



E. Social Security No.: 000-00-0000 F. Date of Birth: 2/3/1986



G. Place of Birth (City & State): Wilmington, DE



H. Sex: F Race: White Height: 5'4" Weight: 135 lbs Hair: Blond Eyes: Brown

Marks/Scars/Tattoos: None



I. Type of motor vehicle operated by you: 2010 Honda Accord



J. Driver's License No.: 9999999 State of Issue: DE Expiration Date: 2/3/2020



K. Your relationship to the Defendant/Respondent: Spouse



L. Attorney: None

Entering your email address on this line authorizes the Court to send you notices by email. If you choose this option, you will not receive notices in regular mail.



☒ I authorize Family Court to deliver court orders in my case(s) to my email address instead of to my mailing address. My email address is: Anne.C.Smith@example.com

*Please note that if you provide an email address, all orders in your pending civil cases in Family Court will be sent in an encrypted email via Egress to the email address provided and will not be mailed to your physical address.

For information on how to receive encrypted emails through Egress, please visit

<https://judicial.state.de.us/courtbox/Download.aspx?id=94888&court=readonly>.

Please fill out the information below in reference to the child(ren) who are involved.

Children



Name	Relationship	Sex	Race	D.O.B.	SSN	Birthplace City & State
<u>Douglas A. Harding</u>	<u>Nephew</u>	<u>M</u>	<u>White</u>	<u>10/14/2012</u>	<u>987-65-4321</u>	<u>Newark, DE</u>

OVER

Please fill in L to Y pertaining to the Defendant/Respondent. (For additional respondents use additional sheets)

M. Defendant/Respondent is a: (Check One) ☒ **ADULT** ☐ **JUVENILE**

N. Name: Michelle Jones

You must complete a separate form for each Respondent.

O. Address: 490 Pine Street

City/State/Zip: Dover, DE 19901

P. Phone – Home: (302) 333-3333 Work: (302) 222-2222 Cell: (302) 111-1111

Q. Employer & Address: XYZ Corporation
67 Walnut Avenue
Dover, DE 19901

Hours/Shift 9:00 AM to 5:00 PM, Monday-Friday

R. Social Security No.: 888-88-8888 S. Date of Birth: 7/13/1991

T. Place of Birth (City & State): Wilmington, DE

U. Relationship to Child: ☐ Not Applicable ☒ Mother ☐ Father ☐ Relative ☐ Non-Relative

☐ Other (Please Describe) _____

V. Sex: F Race: White Height: 5'4" Weight: 140 lbs Hair: Black Eyes: Brown

Marks/Scars/Tattoos: Tattoo of a heart on right shoulder

W. Driver's License X. Type of vehicle operated by

State & No.: DE 1111111 Defendant/Respondent: 2009 Chevy Impala

Y. Parent's Name (if a juvenile): _____

Z. Time when Respondent is usually home: 7:00 PM to 6:30 AM, Monday-Friday; mornings on weekends

List places where the Respondent spends time other than at home or

AA. Additional information about Respondent that may aid the process server in locating him/her to serve petition:

If you are unable to locate the Respondent at her place of residence or her place of employment, she spends a lot of time at her brother's house, which is located at 775 Spruce Lane, Dover, DE 19901.

Write directions to each address listed on this form to make sure that the process server can locate the Respondent.

DIRECTIONS TO RESPONDENT'S RESIDENCE

Home: Go West on 8th Street until you reach Pine Street. Turn right and go 3 and one-half blocks. The Respondent's house is on the right and is white with blue shutters.

Work: Go North on Route 13 and take the first right onto Cherry Drive. Go about a mile and a half and turn left onto Walnut Avenue. XYZ Corporation is on your left.

Brother's Residence: Go two blocks past Respondent's home to 10th Street. Turn left and go one block to Spruce Lane. Turn right. It is the second house on the right. The house is green.

The Family Court of the State of Delaware

 in and for ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

AFFIDAVIT THAT A PARTY'S ADDRESS IS UNKNOWN

Petitioner

 Last First MI
 Smith Anne C.

Respondent

 Last First MI
 Smith John D.

vs.

File No.

CPI No.

Fill in the county in which you are filing.

 of Delaware)
 Kent County)

SS.

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this 17th day of March, 2004, personally appeared before me, a Notary Public for the State and County aforesaid, Anne C. Smith, ("Affiant"), who, being by me duly sworn according to law did depose and say:

The person filling out the form is the "Affiant" and his/her name goes here.

- My name is Anne C. Smith
- I do not know the current address and/or telephone number, nor do I know anyone who could provide me with the current address and/or telephone number of John D. Smith. I have contacted his/her (Please check as appropriate) ☐ Parent ☐ Spouse ☐ Employer ☒ Other: Respondent's Brother. His/Her last known address and telephone number were:

490 Pine Street
Wilmington, Delaware 19899

Fill in the date that the Respondent last lived at the above address.

 as of January 10, 2004.

- I have had no contact with him/her since January 1, 2004.
- I have been informed of my responsibility to accomplish publication and my failure to do so will result in the petition being dismissed.
- The information contained herein is true and correct to the best of my knowledge and belief.



Sign in the presence of a notary.


Anne C. Smith

Affiant

SWORN TO AND SUBSCRIBED before me the day and year aforesaid.

Signed by notary or court staff.


Donna King

Notary Public

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

CONSENT ORDER – CUSTODY, VISITATION

Petitioner

v. Respondent

Name Anne C. Smith	Name John D. Smith	File Number CK04-12111
Street Address 10 Oak Street	Street Address 490 Pine Street	
Apt. or P.O. Box Number Apt. #123	Apt. or P.O. Box Number	Petition Number 04-42301
City State Zip Code Dover DE 19901	City State Zip Code Wilmington DE 19899	
Attorney Name and Phone Number n/a	Attorney Name and Phone Number n/a	

IN THE INTEREST OF the following child(ren):

Name (Child #1) Doug A. Smith	Date of Birth 10/14/91	Name (Child #2) Mary J. Smith	Date of Birth 4/17/96
Name (Child #3)	Date of Birth	Name (Child #4)	Date of Birth
Name (Child #5)	Date of Birth	Name (Child #6)	Date of Birth

The parties in the above-entitled case hereby agree upon the following arrangement and do consent to the entry of an Order providing for the same:

Type of Custody: ☒ Joint Custody ☐ Sole Custody

Custody Awarded to: **Anne C. Smith and John D. Smith**

Physical Placement with: **Anne C. Smith**

Relationship: **Mother**

Address: **10 Oak Street, A
Dover, DE 19901**

Fill in the name of the parent that the child is going to live with most of the time.

Visitation Awarded to: **John D. Smith**

Relationship: **Father**

Address: **490 Pine Street
Wilmington, DE 19899**

Check which type of custody you have agreed upon. If you check Joint Custody, you must list both parents on the next line. If you check Sole Custody list only one of the parents on the next line.

OVER

Visitation shall be as follows:

Describe the visitation schedule you have agreed on in detail.

Father shall have visitation with the children every other weekend beginning the first weekend in August. Father will pick the children up from school on Friday afternoon and will have them with him until 4 p.m. on Sunday. Father and Mother will meet at the McDonald's in Middletown to exchange the children at 4pm on Sunday. Both parties will try to be on time, but if one is running late, he/she will call the other to let him/her know of the delay.

Fill in the date you have the form notarized.

Father shall have visitation with the children every Wednesday evening from 6:30 to 8:30 p.m. Father will pick the children up at Mother's house and will drop them off at Mother's house. If there is a school activity on Wednesday evening so that the child(ren) cannot visit with Father, then Tuesday evening may be substituted.

Father and Mother will follow the visitation schedule set forth in the Standard Visitation Guidelines regarding holidays except for Christmas. Mother will have the holidays in Column 1 on odd years and the holidays in Column 2 on even years. Father will have the holidays in Column 1 on even years and the holidays in Column 2 on odd years. The children will spend all of Christmas Eve with Mother every year and all of Christmas Day with Father every year. Mother will drop the children off at Father's home at 9pm on Christmas Eve and Father will keep the children until 4pm the afternoon before school resumes after Winter Break. Father will drop the children off at Mother's house that afternoon.

Mother will have the children for all of Spring Break.



Affidavit of Consent

Be it remembered that on July 20, 2004, the above named petitioner and respondent personally came before me, the subscriber, a Notary Public for the State and County listed below, who being duly sworn to law did depose and say: I, the undersigned hereby agree upon the following custodial/visitation agreement for the above-named child(ren). I have signed this consent agreement voluntarily and of my own free will.

We hereby waive our right to a Review of a Commissioner's

Sign in the presence of a notary or court staff.

Anne C. Smith

Petitioner

John D. Smith

Respondent

State of Delaware

County of Kent

State of Delaware

County of Kent

Sworn to subscribed before me:

Sworn to subscribed before me:

Donna King

Mediator/Notary Public

Donna King

Mediator/Notary Public

Signed by Commissioner.

Date:



Commissioner

Section 2

PARENT EDUCATION CLASSES



IF YOU HAVE NOT ALREADY DONE SO, you **MUST** file the certificate below:



Certificate(s) of Completion of Parent Education Class (*file original(s)*)

- All parents with children under the age of 17 must take a Parent Education Class. A listing of available classes is available at the Family Court Resource Centers. Once you have completed the Parent Education Class, a Certificate(s) of Completion of Parent Education Class will be given to you.
- You must file the **ORIGINAL** Certificate(s) of Completion of Parent Education Class with the Family Court. If you have already taken the class, an original Certificate(s) of Completion should be in your file.
- Although the matter may be scheduled for Mediation, the Court will **NOT** schedule your Court Hearing before a Judge until you file the required Certificates of Completion.
- You should register for the Parent Education Classes **AS SOON AS POSSIBLE** because the classes tend to fill quickly and you may be placed on a waiting list.
- The parent with whom the child primarily lives is responsible for filing the original Certificate of Completion. If your child lives with you and the other parent equally, then you, as the person who filed the Petition for Parental Visitation or the Petition to Modify Visitation, are responsible for filing the original Certificate of Completion.



**SECTION 3 DESCRIBES WHAT
HAPPENS NEXT.**

Section 3

MEDIATION



After all of the Respondents have been served with the Petition for Parental Visitation or Petition to Modify Visitation and each of the Respondents has had an opportunity to file an Answer, the Court normally will schedule your visitation matter for **Mediation**. **ALL PARTIES are required to attend.**

- The Court will **NOT** schedule Mediation if there is an active **No Contact Order** involving you and the Respondent(s) or there has been a previous finding of domestic violence such as the following:

- A Protection from Abuse Order, **OR**
- An adjudication of criminal charges.

If there is an active No Contact Order involving you and the Respondent(s), you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.

- The Court will **NOT** schedule mediation if one of the parties is a sex offender as defined by Delaware law. If one of the parties is a sex offender as defined by Delaware law, you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.
- Mediation is **NOT** a Court Hearing. At Mediation, a Mediator (a neutral third party) will **try to help** you and the Respondent(s) reach an agreement about visitation. The Mediator will ask you and the other party to tell how you both think the matter should be resolved and will work with you to find a solution that is agreeable to both of you. In other words, the Mediator is there to help you and the other party work together in deciding what arrangement is best for your child. Therefore, try your best to come with a “spirit of cooperation.”



CONSENT ORDERS

- If, at the end of Mediation, you and the other party reach an agreement, the Mediator will type your agreement into a document and you and the Respondent(s) will sign the agreement. The Mediator will also sign the agreement. Then, you will be allowed to leave and the Mediator will give your signed agreement to a Commissioner. The Commissioner will decide whether your agreement should become a court order, called a **Consent Order**.
- If the Commissioner decides your agreement should become a Consent Order, the Commissioner will sign the agreement and the Consent Order will be mailed to you and the Respondent(s). You will **NOT** have to go to a Hearing with a Judge.
- Once a Consent Order is signed by a Commissioner, it is a court order and you and the Respondent(s) **MUST** follow the terms of the Order.





TEMPORARY ORDERS

- If you filed a **Petition for Parental Visitation** and you and the other party do **NOT** reach an agreement at Mediation, the **Mediator** will suggest a **Temporary (Interim) Order** for a Judge to sign. A temporary order is entered so both parents can have contact with the child while the parties are waiting for their hearing to be scheduled.
- A Judge will review the suggested Order and will either sign it as an Interim Order or will change some of the terms before signing it as an Interim Order. The case will then be scheduled for a Court Hearing after you complete the parent education class (see page 32). The Interim Order will remain in effect until another Court Order is issued. You and the Respondent(s) **MUST** follow the terms of the Interim Order until that time.
- If you filed a **Petition to Modify Visitation**, then you will not receive a temporary order. The current visitation order will remain

_____ until you and the Respondent(s) can have a Court Hearing before a Judge.

- As an alternative, **you and the other party** may reach a temporary agreement at Mediation. This agreement would be made with the intent that it should only last until the Judge makes a decision after your Court Hearing. If you do this, the Mediator will type your temporary agreement into a document and you and the other party will sign the temporary agreement. The Mediator will also sign the temporary agreement. Thereafter, you will be allowed to leave and the Mediator will give your signed temporary agreement to a Commissioner. The Commissioner will decide whether your temporary agreement should become a court order, which is called an **Interim Consent Order**.

 You should come to Mediation prepared to discuss how visitation should occur. You should review the Family Court's **Contact Guidelines** to get a general idea of visitation arrangements. The Contact Guidelines are available in the Resource Centers and on the Family Court website. Consider whether the Contact Guidelines accommodate your and the Respondent's schedule as well as the schedule of the child. You are not required to follow the Contact Guidelines. At Mediation, you and the Respondent(s) can work together to establish a visitation schedule that works best for you, Respondent(s) and, **most importantly** your child.

 **Be realistic when asking for the terms of a visitation order.** The law says that it is better for a child to have at least some contact with both parents unless that contact would endanger the child's physical health or significantly impair his or her emotional development. The focus is on what is in the **CHILD'S best interests**. Just because **YOU** do not want the other parent(s) to be involved in the child's life may not mean that is in your **CHILD'S** best interest.

Therefore, at Mediation, be prepared and try to work together and establish a visitation schedule that is in the best interest of the child.



**IF YOU REACHED AN AGREEMENT
AT MEDIATION, THIS IS THE END OF
THE PACKET.
OTHERWISE, GO TO SECTION 4.**

Section 4

HEARING WITH A JUDGE

SCHEDULING THE HEARING



A **Court Hearing** will be scheduled by the Court **ONLY** if:

- The Mediation was unsuccessful (no agreement or a temporary agreement was reached) **OR** Mediation was not required; **AND**
- The original **Certificates of Completion** for the Parent Education Class have been filed. **THE COURT WILL NOT SCHEDULE A HEARING UNTIL THE CERTIFICATES OF COMPLETION HAVE BEEN FILED WITH THE COURT.**

You do not need to file any additional paperwork to have your hearing scheduled. The Court will notify you when your hearing is scheduled, by mailing you a **Notice** to inform you of the time and date of the **Court Hearing**.



Some judges may schedule a **pre-trial hearing**. The purpose of this hearing is to discuss the status of your case prior to scheduling a full evidentiary hearing where you will present evidence and call witnesses.



If you cannot attend the scheduled hearing, you must file the following form:



Motion for Continuance (*file the original and mail one copy to each Respondent*).

- If, once you receive your Notice, you cannot attend the scheduled pre-trial or evidentiary hearing, you must contact the Court **IMMEDIATELY** by filing a **Motion for Continuance**. **DO NOT** call the Court. On this Motion, you must state **very specific reasons**

legal and unavoidable reason for needing to reschedule the hearing. You cannot request a continuance simply because it is not convenient for you to attend the hearing on the scheduled day. Before you file the Motion for Continuance, you must contact the Respondent(s) regarding the continuance and then **tell the Court in your motion how the Respondent(s) feels about the continuance**. Because the law is very strict when it comes to rescheduling, these Motions are not always granted.

- You will be notified by the Court if your Motion for Continuance has been granted. **UNLESS THE COURT GRANTS YOU A CONTINUANCE, YOU MUST APPEAR AT COURT THE DAY OF YOUR SCHEDULED HEARING.** If you fail to appear at the hearing, the Court may dismiss your Petition for Parental Visitation or Petition to Modify Visitation and you will have to start the process again by filing a new petition and paying another filing fee.



Complete the following form and bring it to Court with you on the day of your hearing.



Affidavit of Non-Military Service form.

- **ONLY** complete this form if the Respondent(s) is **NOT** in the military.
- If there is more than one Respondent, you must complete a separate form for each person.



The Court Hearing is a Trial in front of a Judge. At the Court Hearing, you and the Respondent(s) will each be given an opportunity to tell your side of the case and ask witnesses questions. During the Court Hearing, the Judge expects you to follow a certain procedure. It is important that you are familiar with this procedure so you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story.



Family Court has developed a **Guide to Preparing for Your Court Hearing** that explains generally what the Court Hearing procedure is and should answer many of the questions you have about the procedure. It will be helpful to read this information before your scheduled hearing. This packet is available on the Family Court website and in the Resource Centers located in each courthouse.

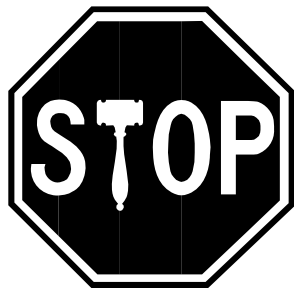


At the hearing, it is up to **YOU** to prove to the Judge **WHY** it is in the child's best interest for the Court to grant you what you are requesting in your Petition for Parental Visitation or Petition to Modify Visitation. The best interest standard is explained on pages 8 & 9 of this Instruction Packet. Review that information before the hearing, so you are prepared to present your case to the Court.



After both sides have presented all of their evidence, one of two things can happen. The Judge can **announce his/her decision** at the end of the hearing, in which case you will leave the Courthouse knowing what the visitation arrangement is. **OR**, the Judge can **reserve decision**. When the Judge reserves decision, he/she considers all of the information presented during the hearing and issues a written order explaining the visitation arrangement sometime after the hearing. Regardless of how the Judge issues the order, you should receive a copy of the Judge's decision, or Court Order, in the mail.

Once the Court has entered a Visitation Order, you and the Respondent(s) should follow the terms of the Order. In other words you should do what the Order tells you to do. The Court will not enforce any agreements made by the parties that are not in a Court Order.



**THIS IS THE END
OF THE PARENT
VISITATION INSTRUCTION
PACKET.**

FILM

The Family Court of the State of Delaware

 In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.



Petitioner			Respondent			File Number	
Name Anne C. Smith			Name John D. Smith			CK04-12111	
Street Address 101 Oak Street			Street Address 490 Pine Street			Petition Number	
Apt. or P.O. Box Number Apt. #123			Apt. or P.O. Box Number			04-42301	
City Dover	State DE	Zip Code 19901	City Wilmington	State DE	Zip Code 19899		
Social Security Number 111-22-3333		Date of Birth 2/3/64	Social Security Number 787-98-6767		Date of Birth 7/13/65		
Attorney Name and Phone Number n/a			Attorney Name and Phone Number n/a				

The section below is to be completed by and signed in the presence of a Notary Public/Clerk of Court on the day of your Divorce/Annulment Hearing.

Fill in the county where you are filing,

AFFIDAVIT OF NON-MILITARY SERVICE

STATE OF DELAWARE

Kent COUNTY

SS.

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, November 30, 2004, personally appeared Before me, a Notary Public for the State of Delaware in the County declared above, Anne C. Smith, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Petitioner in the above captioned civil action;
2. That Respondent is not in the military service of the United States of America; and
3. That Affiant has made this Affidavit pursuant to the provisions of § 200 of the Act of Congress entitled "Soldiers and Sailors Civil Relief Act of 1940" (50 U.S.C.A. App. 520) approved October 17, 1940.



Sign in the presence of a notary or court staff on the day of your hearing.


Anne C. Smith

Petitioner

 SWORN TO AND SUBSCRIBED before me this date, November 30, 2004


Signed by notary or court staff.

Donna King

Notary Public or Clerk of Court

FAMILY COURT OF THE STATE OF DELAWARE CONTACT GUIDELINES

Parents are encouraged to create an agreed equitable written contact schedule that fits their circumstances and their children's lives, with the following serving as a schedule when the parents cannot agree. **Nothing herein prohibits the parents from changing the schedule upon mutual agreement.** In the event of conflicting dates and times, holidays and school breaks shall take priority.

If a child indicates a strong opposition to being with the other parent, it shall be the responsibility of both parents to appropriately deal with the situation by calmly discussing with the child his or her reasons, and to work together to alleviate any issues without confrontation or argument. If they cannot resolve the problem, the parents are encouraged to seek the immediate assistance of a counselor or other professional, or may file a motion requesting Court-ordered counseling. It is the absolute affirmative duty of both parents to encourage compliance with any such Court Order.

Recent Child Development research indicates that children accustomed to interaction with both parents on a daily basis should continue to have regular and frequent contact. The Court's goal is to have the children spend as much quality time with each parent as possible.

The guidelines are based on the assumption that both parents are competent and effective parents and that the child is safe with each parent. In the event that the parties attend a mediation conference and are unsuccessful in reaching either an interim or permanent agreement on the issue of parental contact, the mediator may recommend an alternative schedule considering the particular circumstances of the case as presented during that mediation.

It is with this background that the following guidelines will be applied after considering the factors in 13 Del. C. §722:

1. The wishes of the child's parent or parents as to his or her custody and residential arrangements;
2. The wishes of the child as to his or her custodian(s) and residential arrangements;
3. The interaction and interrelationship of the child with his or her parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;
4. The child's adjustment to his or her home, school and community;
5. The mental and physical health of all individuals involved;
6. Past and present compliance by both parents with their rights and responsibilities to their child under § 701 of this title;

7. Evidence of domestic violence as provided for in Chapter 7A of this title; and
8. The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense

In addition to the 13 Del. C. §722 factors, the following factors may be considered:

1. Previous contact with parents
2. Parents' ability to communicate
3. Geographical proximity with regard to home, school and daycare
4. Housing arrangements
5. Parents' work schedule
6. Number and age of siblings
7. Drug and alcohol history
8. Prior parental interaction
9. Other relevant factors as the Court deems appropriate.

For those children who have had more exclusive care by one parent, the Court should consider whether such overnight visitation should be phased in.

Birth to 18 months: Every other weekend, beginning 6:00 p.m. on Friday through 6:00 p.m. Sunday and two week nights for a minimum of three hours with the parent seeking contact. Each parent shall be entitled to two non-consecutive weeks of vacation. A parent shall give a minimum of thirty (30) days written notice to the other parent prior to the first parent exercising his or her vacation.

18 months to 5 years: Two overnights per week and every other weekend from 6:00 p.m. on Friday through Monday morning with the parent seeking contact. Each parent shall be entitled to two non-consecutive weeks of vacation. A parent shall give a minimum of thirty (30) days written notice to the other parent prior to the first parent exercising his or her vacation.

5 years and up: Shared contact schedule which may be extended to alternate weeks.

1. **Holidays:** _____ shall have the children on the holidays in Column 1 in odd-numbered years and the holidays in Column 2 in the even-numbered years. _____ shall have the children on the holidays in Column 1 in the even-numbered years and the holidays in Column 2 in odd-numbered years:

Column 1

Easter or other religious holiday

Column 2

Memorial Day

Fourth of July
Halloween
Christmas Day

Labor Day
Thanksgiving Day
Christmas Eve

With the exception of Christmas and Halloween contact, holiday contact shall be from 9 a.m. until 6 p.m. the day of the holiday. Halloween contact shall begin at 5 p.m. and end at 8 p.m. on Halloween. Christmas Eve contact shall begin at 6 p.m. on December 24th and end at noon on December 25th. Christmas Day contact shall begin at noon on December 25th and end at 6 p.m. on December 26th. When a holiday falls on a Monday immediately following a contact weekend, the parent that had contact for the weekend shall be entitled to keep the children continuously from 6 p.m. Friday until 6 p.m. Monday.

2. **Mother's/Father's Day:** On Mother's Day and Father's Day, no matter whose turn for contact, the children shall be with the parent whose holiday is being celebrated from 9 a.m. until 6 p.m.

3. **School Breaks (Winter and Spring):** Winter and Spring Breaks shall be shared equally between the parents by dividing the breaks equally or rotating the breaks.

4. **Summer Vacation:** With the exception of children under the age of 5 years, the parents shall alternate contact weeks in the summer with the schedule beginning the first Friday in June and concluding the last Friday in August. _____ shall select their weeks first in odd numbered years and _____ shall select their weeks first in even numbered years. The parent whose choice it is that year shall give the other parent written notice of his/her summer week selection between March 1st and April 1st. The parent who has the child for the week shall be responsible for taking the child to his or her extra curricular activities, summer school, and providing summer care for that week.

5. **Late pick-up:** Both parents shall have the children ready for pick-up at the start of all contact periods. The children and the parent have no duty to wait for the other parent to arrive for contact more than thirty (30) minutes, unless notified. The parent who arrives more than thirty (30) minutes late without prior notification for a particular contact, forfeits that contact, unless the other parent agrees otherwise.

6. **Drop-off:** Neither parent shall return the children early from contact unless the parents agree to a different drop-off time in advance. The parent or other adult well-known to the children must be present when the children are returned from contact.

7. **Canceling contact:** Except in emergency situations, parents must give one another at least twenty-four (24) hours advance notice when canceling a contact period.

8. **Medical treatment and emergencies:** If the children become seriously ill or injured, each parent shall notify the other parent as soon as practicable. If the children become ill or injured during contact, the parent shall contact the other parent to secure treatment unless the situation is a medical emergency.

9. **Telephone/mail:** Both parents shall be entitled to reasonable telephone contact with the child while the child is in the other parents' care. Neither parent shall interfere with telephone or mail contact between the children and the other parent. Long distance calls from an out-of-town parent shall be at that parent's expense.

10. **Transportation:** Unless otherwise ordered or mutually agreed, parents shall have shared responsibility for transportation of the children to and from their home for contact periods and may use another adult well-known to the children for picking up or dropping off the children when necessary. Any person transporting the children shall not be under the influence of alcohol or drugs, and must be a licensed, insured driver. All child restraint and seat belt laws must be observed by the driver.

11. **School work:** Parents shall provide time for children to study and complete homework assignments, even if the completion of work interferes with the parent's plans for the children. Both parents are responsible for providing all of the school assignments and books to the other parent. Summer school which is necessary for a child must be attended, regardless of which parent has the child during the summer school period.

12. **Extracurricular activities:** Regardless of where the children are living, their continued participation in extracurricular activities, school related or otherwise, should not be interrupted. The parent with whom the children are staying shall be responsible for providing transportation to activities scheduled during contact with that parent. Each parent shall provide the other parent with notice of all extracurricular activities, complete with schedules and the name, address and telephone number of the activity leader, if available.

13. **Relocation:** Prior to a parent relocating their residence, consideration shall be given to the effect the relocation may have on the existing contact schedule. If the relocation may result in a change in the child's school, travel time to school or extracurricular activities or otherwise may adversely affect the child's best interest, the parent choosing to relocate shall obtain written approval from the other parent or a Court Order prior to relocating.

14. **Notice of change of address:** Both parents shall give written notice to the other parent immediately upon any impending change of address and/or phone number. The written notice must include the new mailing address and phone number (in the event the mailing address is a Post Office Box, the written notice must include a physical address and/or directions to the new residence), unless a restrictive order has

been obtained from the Court. A copy of the notice shall also be provided to the Family Court in the appropriate county.

15. **Other:** _____
